

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Plaintiff,	)	No.
	)	
v.	)	FILED: JUNE 4, 2008
	)	08CV3226 PH
	)	JUDGE COAR
PIERRE COLE,	)	MAGISTRATE JUDGE
	)	
Defendant.	)	Formerly case No. 04 CR 30563,
	)	Circuit Court of Cook County, Illinois.
In the matter of an Order to Produce	)	
Documents directed to the United States	)	
Department of the Army Staff Judge	)	
Advocate, Ft. Riley, Kansas.	)	

**NOTICE OF REMOVAL**

To: Dorothy Brown, Clerk  
Circuit Court of Cook County  
50 W. Washington  
Room 1006  
Chicago, Illinois 60602

Keith Spielfogel  
190 S. LaSalle St.  
Suite 520  
Chicago, Illinois 60603

Nancy Donahoe  
Assistant State's Attorney  
2650 S. California  
Room 12C28  
Chicago, Illinois 60608

The UNITED STATES, by its attorney, PATRICK J. FITZGERALD, United States Attorney for the Northern District of Illinois, submits this notice of removal of the Order to Produce Documents in the above-captioned proceeding from the Circuit Court of Cook County, Illinois, to

the United States District Court, Northern District of Illinois, pursuant to 28 U.S.C. § 1442(a)(1), and in support states the following:

1. At the request of an attorney for Pierre Cole, the Circuit Court of Cook County entered an order on May 6, 2008, directing the United States Department of the Army Staff Judge Advocate, Ft. Riley, Kansas to produce to the attorney specified documents.

2. The matter is an action against an officer of the United States for actions under color of his office and thus is subject to removal to this court pursuant to 28 U.S.C. § 1442(a)(1).

3. The production of information from the Department of the Army in the course of a proceeding in which the United States is not a party is governed by 32 C.F.R. 97.1 *et seq.* and 32 C.F.R. 516.41 *et seq.*, which set forth specific requirements to be met before a witness can respond. A party seeking disclosure of information from the Department of the Army must comply with the requirements set forth in the cited regulations. Because of sovereign immunity, state courts may not compel compliance with subpoenas on federal officials. *United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951); *Edwards v. Department of Justice*, 43 F.3d 312 (7th Cir. 1994). Instead judicial review is available only in federal courts under the Administrative Procedure Act. *Id.* This court acquires no more jurisdiction as a result of this removal than the state court had, which is none.

4. Copies of all process, pleadings, and orders served upon the Staff Judge Advocate are attached hereto.

WHEREFORE, the Order to Produce Documents now pending in the Circuit Court of Cook County, Illinois, is properly removed to this Court pursuant to 28 U.S.C. § 1442(a).

Respectfully submitted,

PATRICK J. FITZGERALD  
United States Attorney

By: s/ Jonathan C. Haile

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JONATHAN C. HAILE  
Assistant United States Attorney  
219 South Dearborn Street  
Chicago, Illinois 60604  
(312) 886-2055  
jonathan.haile@usdoj.gov

**CERTIFICATE OF SERVICE**

The undersigned Assistant United States Attorney hereby certifies that in accordance with FED. R. CIV. P. 5, LR5.5, and the General Order on Electronic Case Filing (ECF), the following document:

**NOTICE OF REMOVAL**

was served pursuant to the district court's ECF system as to ECF filers, if any, and was sent by first-class mail on June 4, 2008, to the following non-ECF filers:

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Suite 520  
Chicago, Illinois 60603

PLEASE TAKE NOTICE that on June 4, 2008, the UNITED STATES, by its attorney,  
PATRICK J. FITZGERALD, United States Attorney for the Northern District of Illinois, filed a  
Notice of Removal of a Civil Action in the above entitled action, a copy of which is submitted  
herewith.

Respectfully submitted,

PATRICK J. FITZGERALD  
United States Attorney

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JONATHAN C. HAILE  
Assistant United States Attorney  
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Order

CCG N002-300M-2/24/05 (

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

People of The State of Illinois

v.

Pierre Cole

08CV3226 PH

JUDGE COAR

MAGISTRATE JUDGE KEYS

No. 04 CR 30563

ORDER

IT is hereby ordered that The Staff Judge Advocate at Ft. Riley, Kansas shall provide to the attorney for Pierre Cole, Keith Spielfogel, an unredacted copy of the Request for Campaign Participation Credit for Iraq and a by-name ROSTER of soldiers deployed with the HH 134<sup>th</sup> Armor for OIS. Pierre Cole was deployed on or about August 28, 2003.

AF2N - BRAVO Alpha - Victor Charlie Oscar  
office symbol of originated document.

Atty. No.: 12276  
Name: KEITH SPIELFOGEL  
Atty. for: Cole  
Address: 190 S. LaSalle ST Suite 520  
City/State/Zip: Chicago, IL 60603  
Telephone: (312) 236-6021

ENTERED:

Dated: 5/6 2008

[Signature]  
Judge

1725  
Judge's No.

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS